

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:
ROMAN CATHOLIC CHURCH OF THE
ARCHDIOCESE OF SANTA FE, a New
Mexico corporation sole,

Debtor.

Chapter 11
Case No. 18-13027-t11

MOTION FOR AN ORDER UNDER 11 U.S.C. § 107 AND FED. R. BANKR. P. 9018
AUTHORIZING DEBTOR TO FILE UNDER SEAL EXHIBITS TO MOTION FOR AN
ORDER UNDER 11 U.S.C §§ 105 AND 363 AUTHORIZING DEBTOR TO CONTINUE
TO PAY PRE-PETITION WAGES, COMPENSATION AND HONOR EMPLOYEE
BENEFIT PLANS AND PROGRAMS

Roman Catholic Church of the Archdiocese of Santa Fe, a New Mexico corporation sole, the debtor and debtor-in-possession (“ADSF”) in the above captioned Chapter 11 reorganization case (the “**Reorganization Case**”), by and through its proposed attorneys undersigned, respectfully requests that the Court enter an Order pursuant to 11 U.S.C. § 107 and Fed. R. Bankr. P. 9018 authorizing ADSF to file an exhibit to its “Motion for an Order Under 11 U.S.C. §§ 105 and 363 Authorizing Debtor to Continue to Pay Pre-Petition Wages, Compensation and Honor Employee Benefit Plans and Programs” (the “**Employee Wage and Benefits Motion**”) under seal. The exhibits disclose the confidential individual pay rates and benefits of the employees of ADSF. Such information should not be made public. Instead, ADSF requests the Court allow it to file such pleadings under seal and provide copies of the sealed exhibit to the Office of the United States Trustee and to counsel for a creditors’ committee (when one is formed) upon request of such counsel, subject to a confidentiality protocol to be agreed upon between ADSF, the Office of the United States Trustee, and such counsel for a creditors’ committee and approved by the Court.

This Motion presents a “core proceeding” over which the Court has jurisdiction to enter a final order under 28 U.S.C. §§ 157 (A) and 1334. This Motion is supported and authorized by 11

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U.S.C. §§ 105 and 107. Proceedings on this Motion are governed by Fed. R. Bankr. P. 9018. This Motion is supported by the Declaration of Tony Salgado (the “**Salgado Declaration**”); and the entire record before the Court in this Chapter 11 Reorganization Case.

On December 3, 2018 (the “**Petition Date**”), ADSF commenced this Reorganization Case by filing a voluntary Chapter 11 petition. ADSF has remained a debtor-in-possession under 11 U.S.C. §§ 1107 and 1108 since the Petition Date.

LEGAL ARGUMENT

11 U.S.C. § 107(b) and (c) provide Bankruptcy Courts with the power to issue orders that will protect entities and individuals from potential harm that may result from disclosure of information, either because such information is not information that should be publicly disclosed, or because such information could create an undue risk of identity theft or other unlawful injury to the individual or the individual’s property. This section provides in relevant part:

- (b) On request of a party in interest, the bankruptcy court shall . . .
 - (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or
 - (2) protect a person with respect to scandalous or defamatory matter contained in a paper in a case under this title.
- (c)(1) The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual’s property;
 - (A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.
 - (B) Other information contained in a paper described in subparagraph (A).

Furthermore, Fed. R. Bankr. P. 9018 defines the procedures by which a party may move for relief under 11 U.S.C. § 107(c) and provides in relevant part:

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On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information, [and] (2) to protect any entity against scandalous or defamatory matter contained in any paper filed in a case under the Code[.]

Pursuant to this authority, ADSF requests the Court allow it to file the exhibit to the Employee Wage and Benefits Motion under seal, because it discloses the confidential, individual pay rates and benefits for every individual employee of ADSF. Although ADSF must file this exhibit with the Court to allow the Court to determine that no individual has exceeded the statutory administrative claim cap set in 11 U.S.C. § 507(a)(4) for purposes of honoring employee benefits and paying pre-petition wages, it is unfair for ADSF's employees to have to publicly disclose their pay information in order to have their pre-petition wages paid to them.

Matters pertaining to human resources, employee benefit packages, and employee pay are often kept confidential by employers. Similarly, ADSF maintains the confidentiality of its employees' individual pay rates and benefits. Furthermore, other than the Court and interested parties having knowledge of the amount of pre-petition wages and compensation being requested for payment, there is no benefit or reason to identify individual employee pay rates. To the extent there could be, the relief requested allows for ADSF to provide a copy of the sealed exhibit to the Office of the United States Trustee and to counsel for a creditors' committee (when one is formed) upon request of such counsel, subject to a confidentiality protocol to be agreed upon between ADSF, the Office of the United States Trustee, and such counsel for a creditors' committee and approved by the Court.

Wherefore ADSF respectfully requests that the Court enter an Order:

A. Approving the Motion;

MOTION FOR AN ORDER UNDER 11 U.S.C. § 107 AND FED. R. BANKR. P. 9018 AUTHORIZING DEBTOR TO FILE UNDER SEAL EXHIBITS TO MOTION FOR AN ORDER UNDER 11 U.S.C. §§ 105 AND 363 AUTHORIZING DEBTOR TO CONTINUE TO PAY PRE-PETITION WAGES, COMPENSATION AND HONOR EMPLOYEE BENEFIT PLANS AND PROGRAMS - 3

B. Requiring ADSF to maintain the confidentiality of its employees' individual pay rates and benefits;

C. Authorizing ADSF to file Exhibit A to its Employee Wage and Benefits Motion under seal pursuant to 11 U.S.C. § 107(c) and Fed. R. Bankr. P. 9018;

D. Notwithstanding the foregoing, authorizing and directing ADSF to provide the sealed exhibit to the Office of the United States Trustee and authorizing the United States Trustee to use the sealed exhibit in discharge of its duties and obligations under Title 11 and 28 of the United States Code; and (2) authorizing and directing ADSF to provide the sealed exhibit to counsel for any committee appointed under 11 U.S.C. § 1102 upon request of such counsel, but only after confidentiality procedures are agreed upon by ADSF, United States Trustee, and counsel for any committee appointed in this case. Should the parties be unable to jointly agree upon confidentiality procedures, the matter shall be submitted to the Court; and

E. Granting such other relief as the Court deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED this 3rd day of December, 2018.

/s/ Bruce A. Anderson
Ford Elsaesser
Bruce A. Anderson
ELSAESSER ANDERSON, CHTD.
320 East Neider Avenue, Suite 102
Coeur d'Alene, ID 83815
(208) 667-2900
Fax: (208) 667-2150
ford@eaidaho.com
brucea@eaidaho.com

-and-

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/s/ Stephanie L. Schaeffer
Thomas D. Walker
Stephanie L. Schaeffer
WALKER & ASSOCIATES, P.C.
500 Marquette N.W., Suite 650
Albuquerque, New Mexico 87102
(505) 766-9272
Fax: (505) 722-9287
twalker@walkerlawpc.com
sschaeffer@walkerlawpc.com
Proposed Counsel for Debtor

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CERTIFICATE OF SERVICE

Pursuant to F.R.C.P. 5(b)(3), F.R.B.P. 9036 and NM LBR 9036-1(b), I hereby certify that service of the foregoing was made on December 3, 2018 via e-mail, and the notice transmission facilities of the Bankruptcy Court's case management and electronic filing system on the following parties:

U.S. Trustee P.O. Box 608 Albuquerque, NM 87103 ustpregion20.aq.ecf@usdoj.gov Alice.N.Page@usdoj.gov Charles.Glidewell@usdoj.gov	Brad D. Hall Levi Monagle Law Offices of Brad D. Hall 320 Gold Avenue, SW Suite 1218 Albuquerque, NM 87102 brad@bhallfirm.com	Jim Stang PACHULSKI STANG ZIEHL & JONES LLP 10100 Santa Monica Blvd. #1300 Los Angeles, CA 90067-4114 jstang@pszjlaw.com
Jeffrey E. Jones Law Office of Jeffrey E. Jones P.O. Box 24350 Santa Fe, NM 87504-1986 eljefelaw@msn.com	Paul R. Harris Ulmer & Berne LLP 1660 West 2 nd Street Ste 1100 Cleveland, OH 44113-1448 pharris@ulmer.com	Stephen E. Tinkler TINKLER LAW FIRM 309 Johnson St. Santa Fe, NM 87501 set@tinklernm.com
Merit Bennett The Bennett Law Group, LLC 460 St. Michael's Drive, Suite 703 Santa Fe, NM 87105 mb@thebennettlawgroup.com	Martha G. Brown Dominic A. Martinez Modrall Sperling 500 4 th Street NW, Suite 1000 Albuquerque, NM 87102 mgb@modrall.com dominic.martinez@modrall.com	Carolyn M. "Cammie" Nichols Caroline "KC" Manierre Paul Linnenburger Rothstein, Donatelli, LLP 500 Fourth Street NW, Suite 400 Albuquerque, NM 87102 cmnichols@rothsteinlaw.com
NM Taxation & Revenue Dept PO Box 8575 Albuquerque, NM 87198 jjacobsen@nmag.gov	Bank of America G. Christopher Miller 100 Federal St. Boston, MA 02110 Mailstop MA5-100-09-12 g.christopher.miller@bankofamerica.com	<i>Courtesy Copy to:</i> Tania Maestas Sharon Lee Pino Office of the NM Attorney General P.O. Box 1508 Santa Fe NM 87504-1508 tmaestas@nmag.gov spino@nmag.gov

20 largest unsecured creditors

/s/ *Stephanie Schaeffer*
Stephanie Schaeffer

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